IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.431 OF 2005

Dr.Rameshchandra D.Pandit ..Appellant.

V/s.

The Income-tax Officer ..Respondent.

Mr.J.D.Mistry with Vasanti Patel for appellant.

Mr.Pankaj Kapoor with Parag Vyas for respondent.

CORAM : V.C. DAGA AND J.P.DEVADHAR, JJ.

DATED : 30TH AUGUST, 2005.

P.C. :-

. This is appeal filed under section 260A of the Income Tax Act, 1961 at the instance of the appellant-assessee challenging the 2nd Appellate order dated 8/11/2004 passed by the Income Tax Appellate Tribunal, 'J' Bench Mumbai in ITA No.3929/M/I97 for the assessment year 1990-91 whereby the appeal filed by the Revenue came to be dismissed though in the operative part it is stated that 'for statistical purposes', the departmental appeal is treated as partly allowed. However, fact remains that in substance it was dismissed though one of the findings recorded in favour

of the assessee has ben set aside accepting other alternate contention which was rejected by the Ist appellate Court.

2. It is needless to mention that no appeal would lie against the adverse finding if ultimate order in appeal is in favour of the person filing appeal in the higher Court. In this view of the matter, the appeal filed by the assessee is dismissed as not maintainable with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)